

REMARKS

Claims 1, 3-15 and 17-18, as amended, are currently pending for the Examiner's review and consideration. Claims 2, 16, 19, and 20 have been canceled.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Claims 1, 3-12, 15, 17 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat No. 6,078,908 to Schmitz (hereinafter "Schmitz") in view of U.S. Pat. No. 5,675,630 to Beatty (hereinafter "Beatty").

Independent claim 1 has been amended to require the step of "transmitting...a maximum amount for a payment as a payment framework." Support for this amendment may be found, at least, in originally filed claim 14.

Independent claim 1, as amended, is patentable over the prior art. Schmitz, the primary prior art reference, relates to an authorization request process but it fails to disclose, among other things, the step of "transmitting...a maximum amount for a payment as a payment framework," as now recited in independent claim 1, and as also recited in independent claims 13 and 14. Beatty does not remedy the deficiencies of Schmitz. The invention of Beatty concerns an automated method for correlating phone books and speed dial features of a cellular phone, or other portable cellular communication device, with individual NAM settings, such as modules used to store cellular phone number assignments, at the option of the user when the user switches between the NAMs. And while, as noted in col. 3, lines 30 to 38, the invention of Beatty aims at providing an economical solution to those who require multiple NAMs and phone books, Beatty does not disclose any specifics regarding payment and certainly does not disclose that what is transmitted to a user is "a maximum amount for a payment as a payment framework." Therefore, independent claim 1, as amended, is not rendered obvious by a combination of Schmitz and Beatty, because both references do not disclose the step of "transmitting...a maximum amount for a payment as a payment framework." And, as explained below, the Wright reference also does not disclose that step.

Independent claims 13 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitz in view of U.S. Pat. Appl. Pub. No. 2001/0027449 to Wright (hereinafter "Wright").

In the remarks filed on July 9, 2008, the Applicant argued that the cited prior art references do not disclose the step of "transmitting ... a maximum amount for a payment as a payment framework." In response to this argument, the Examiner takes the position that Wright, at paragraph [0045], teaches the establishment of a payment structure, because it states therein:

As one skilled in the art will appreciate, the invention disclosed herein contemplates embodiments and modifications, including the following. In one embodiment, the IICSP acts as financial intermediary between the consumer and a service provider by including one or more software components to effect payment charging and collection. For example, the PC software component gathers credit or debit card information from the consumer and submits the same to the proper payment processing centers to process the charge at the end of the billing period for the consumer.

Furthermore, the Examiner notes that it would have been obvious to one of ordinary skill in the art at the time of the invention to include a payment by Wright in the system of Schmitz, since the claimed invention is merely a combination of old elements.

Applicant respectfully disagrees with the Examiner. Applicant notes the Examiner has conceded that Schmitz fails to disclose steps a) and a1) of claims 13 and 14, respectively, which recite *inter alia* "transmitting an authorization request for the payment procedure, an identification code, and a maximum amount for a payment as a payment framework from the mobile terminal to the identification module." However, the Wright reference does not remedy the deficiencies of Schmitz.

Wright discloses that an IICSP (instantaneous Internet charging services provider) acts as a financial intermediary between the consumer and a service provider by including one or more software components to affect payment charging and collection. But there is no disclosure that the software components of the IICSP are capable of *inter alia* "transmitting an authorization request for the payment procedure, an identification code, and a maximum amount for a payment as a payment framework from the mobile terminal to the identification module." The exemplary software component cited in Wright merely gathers credit or debit card information from the consumer and submits the same to the proper payment processing centre to process the charge at the end of the billing period for the consumer. A person having ordinary skill in the art would not read this to mean that the PC in Wright is capable of *inter alia* "transmitting an authorization request for the payment procedure, an identification code, and a maximum amount for a payment as a payment framework from the mobile terminal to the identification module" as recited in independent claims 13 and 14. Thus even a combination of Schmitz and Wright does not render obvious independent claims 13 and 14.

In order for an obviousness rejection to be appropriate under § 103(a), the combination of

references must disclose all of elements of a particular claim. However, for the reasons stated above, Schmitz in view of Beatty does not disclose all elements of independent claim 1, and Schmitz in view of Wright does not disclose all elements of independent claims 13 and 14. Thus, independent claims 1, 13 and 14 are not rendered obvious. Because claims 3-15, 17 and 18 all depend upon allowable claim 1, and recite further limitations thereto, they are therefore patentable for that reason alone. Applicant reserves the right to further support the patentability of these dependent claims, should that become necessary.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

A Petition for Extension of Time and the \$245 fee for a two-month extension of time are submitted herewith. If any other extension of time is required, it is hereby petitioned under 37 C.F.R. § 1.136, and if any other required fee is due, the Commissioner may charge the appropriate fees to The H.T. Than Law Group, Deposit Account No. 50-1980.

Respectfully submitted,

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